City of Sammamish Planning Commission Environmentally Critical Areas Public Hearings Oral Testimony in Summary November 8<sup>th</sup> & November 15<sup>th</sup>, 2012

Definitions of acronyms in this document:

- BAS Best Available Science
- ECA Environmentally Critical Areas
- EHNSWB Erosion Hazard Near Sensitive Water Body overlay
- FWHCA Fish and Wildlife Habitat Conservation Areas
- FFA Frequently Flooded Area
- LID Low Impact Development
- RUE Reasonable Use Exception

#	Name	Date	Topic	Summary of Written Comment
1.	Mark Cross	11/8/12	Landslides	<ul> <li>Concerned about effects of development on steep slopes, particularly in the EHNSWB. Concerned that a casual approach to the analysis of these areas is not effective and that a pilot program allowing a number of developments will not add to a complete analysis, but open the door to more development.</li> <li>Offered a caution to the Planning Commission to determine whether they are working from the basis of science or regulation.</li> <li>Noted that Issaquah is working on a program of water quality testing, which will allow for some code flexibilities while making some more restrictive adjustments elsewhere in the code.</li> <li>Also offered a suggestion to consider downstream impacts as part of this analysis.</li> </ul>
2.	Brent Carson (rep. Jim Tosti)	11/8/12	EHNSWB	<ul> <li>Made reference to the AMEC BAS report and the Krabbe/Zissette report noting that the former references stormwater regulations of Redmond, WA which were used for the proposed EHNSWB pilot program.</li> </ul>

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				<ul> <li>Noted that the pilot program originally proposed alternatives for those property owners who do not currently have the ability to tightline to Lake Sammamish.</li> <li>Noted that the pilot program is a test with an expiration date that will prove to protect water quality in Lake Sammamish.</li> <li>Asked that the draft provision contained in 21A.50.220(5)(e)(v) limiting the number of projects that may start per season be stricken as it is unmanageable and unfair.</li> </ul>
3.	Leland Rosenlund	11/8/12	No Disturbance Area	<ul> <li>Concerned about the development potential of his property.         Currently, the only alternative is utilizing low impact development measures and they will not work in his particular case.     </li> <li>Stated support for 4-15e.</li> </ul>
4.	Larry Martin	11/8/12	EHNSWB	Supported Brent Carson's earlier comment – "Asked that the draft provision contained in 21A.50.220(5)(e)(v) limiting the number of projects that may start per season be stricken as it is unmanageable and unfair."
5.	Jim Osgood	11/8/12	EHNSWB	<ul> <li>Request to review development in the overlay on a case by case basis rather than utilizing a prescriptive strategy.</li> </ul>
6.	Susan Richardson	11/8/12	EHNSWB	<ul> <li>Concerned about property values in the overlay and constitutional rights.</li> <li>Would like to see the proposed pilot program open to properties that don't have the opportunity to tightline to Lake Sammamish as well.</li> </ul>
7.	Greg Krabbe (rep. Jim Tosti)	11/8/12	EHNSWB	Offered a defense of the pilot project and noted that he and his team have suggested ideas that would benefit other properties beyond those that can tightline to the Lake Sammamish.
8.	Rob Kapella	11/8/12	EHNSWB	Offered support for 4-15e as it pertains to his project allowing some improvements on the property.
9.	Megan Gee	11/8/12	Wetlands	<ul> <li>Noted staff concerns about the Department of Ecology's reservations regarding isolated wetlands and the exemption threshold according to wetland area.</li> <li>Noted the information submitted for the record already related to Renton's isolated wetland threshold for exemption in particular and 11 others. Also noted the Army Corps of</li> </ul>

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				Engineers' exemption size.
10.	Dante Morelli	11/8/12	EHNSWB	<ul> <li>Offered support for opening the proposed pilot project to others if they meet set requirements for inclusion.</li> </ul>
11.	Erica Tiliacos	11/8/12	EHNSWB	<ul> <li>Concerned that the definition of property rights has been taken out of context. Noted that good code equals property rights.</li> <li>Concerned about the proposed pilot program acting as a vehicle for creating a plat only and that monitoring has been problematic for the city in the past.</li> <li>Proposed utilizing transferrable development rights rather than the proposed pilot program.</li> </ul>
12.	Art Johnson	11/8/12	EHNSWB	<ul> <li>Concerned that the pilot program is missing enforcement and inspection elements both offering safety mechanisms for any new development.</li> </ul>
13.	Reid Brockway	11/8/12	Streams	<ul> <li>Referenced a map of Sammamish showing 30 streams of high value and noted that stream buffers impact a lot of properties throughout the city.</li> <li>Proposed that code restrictions represent an activist stance and agenda.</li> <li>Noted 32 items regarding streams in the code and offered a one page "roadmap" summarizing all the comments related to streams for use in the Planning Commission's deliberation period.</li> </ul>
14.	Greg Kipp	11/8/12	General	<ul> <li>Concerned that critical areas are subtracted from the parcel area before density is calculated.</li> <li>Noted that he has submitted this concern to be included in the 2013 Comprehensive Plan update.</li> </ul>
15.	Duncan Vanderbilt	11/8/12	EHNSWB	<ul> <li>Concerned that his property would not meet the requirements and parameters as set by the proposed pilot program.</li> </ul>
16.	Rory Crispin	11/8/12	FFA	<ul> <li>Concerned that the numbers used to determine flood insurance issues are inaccurate when compared to the new and old FIRM maps.</li> </ul>
17.	Mark Cross	11/15/12	EHNSWB	<ul> <li>Concerned about cumulative impacts as a result of the proposed pilot program.</li> <li>Concerned that the Planning Commission is looking too closely at science and suggested, rather than creating a pilot program,</li> </ul>

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				drafting code and letting the City Council make a decision.
18.	Greg Krabbe	11/15/12	EHNSWB	<ul> <li>Noted that he and his associates submitted a revised pilot program: amends the number of projects allowed in the program per construction season; includes improved existing stormwater mechanisms; added a 10 year stormwater threshold during winter months and 25 during summer months; added enhanced post-development water quality treatment up to 60%.</li> </ul>
19.	Jim Osgood	11/15/12	EHNSWB	<ul> <li>Offered an overview of a pilot program proposal.</li> <li>Noted that the city is 7 to 10 years away from adopting a tightline system.</li> <li>Noted that Lake Sammamish is a 303D designated water body.</li> <li>Noted that the stormwater manual has been updated since the overlay's adoption in 1997 and offers better protection now.</li> <li>Requested that the public comment period remain open until December 6, 2012.</li> </ul>
20.	Triad Associates	11/15/12	EHNSWB	Offered options for properties like the Osgood's to have an opportunity to participate in the proposed pilot program: include properties 5 acres in size or more; utilize level III stormwater standards including any man made conveyance systems in the public right of way; mitigate any erosion which takes place in those conveyance systems; require a minimum open space dedication of 15%; include rain gardens and other LID elements.
21.	Paul Bailey – Cascade Utilities	11/15/12	EHNSWB	<ul> <li>Noted that Bellevue and Redmond both use King County standards.</li> <li>Noted that all erosion control must be documented to get a permit.</li> <li>Stated that he has never seen an erosion control problem on the properties he has worked on in Sammamish, including the Osgood's.</li> </ul>
22.	Susan Richardson	11/15/12	EHNSWB	<ul> <li>Noted the attorney general's advisory opinion related to takings and that properties in the overlay are treated differently than those outside.</li> <li>Offered support for the proposed pilot program and asked for some flexibility concerning tightlining.</li> </ul>

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23.	Sam Rodabough (rep. Jim Osgood)	11/15/12	EHNSWB	<ul> <li>Noted that Sammamish is the only jurisdiction in the state with an overlay such as the EHNSWB.</li> <li>Noted all of the limitations to risk already existing in the code and offered by the proposed pilot program.</li> <li>Suggested that the form for 4-15 should read: Property – P; Environment – Low Risk; Implementation – Neutral.</li> <li>Noted that the Renton wetland exemption decision was not controversial.</li> <li>Requested that the comment period remain open until the next meeting at the least.</li> </ul>
24.	Larry Martin	11/15/12	EHNSWB	<ul> <li>Suggested the proposed pilot program include allowances for properties that can't tightline to Lake Sammamish by the use of man-made conveyance systems where they exist and LID where appropriate.</li> <li>Noted that the new revision to the proposed pilot program includes a requirement to remove 60% of post-development phosphorus where feasible.</li> <li>Offered encouragement to let more projects participate in the proposed pilot program.</li> <li>Noted that AMEC's BAS report supports tightlining where infiltration is not possible.</li> </ul>
25.	Jonathan Frodge – Save Lake Sammamish	11/15/12	EHNSWB	<ul> <li>Offered a history of his group's activities to protect Lake Sammamish and their successes.</li> <li>Noted that tightlines may address flow issues, but do not address the phosphorus issues and associated toxic blooms.</li> <li>Cautioned that any change in the overlay or buffer standards will increase the risk of toxic blooms.</li> <li>Noted that major events in the summer load Lake Sammamish with nutrients and increase the risk of toxic blooms.</li> </ul>
26.	David Gee	11/15/12	Wetlands	<ul> <li>Noted the disproportional impact of an inflexible regulatory process.</li> <li>Offered a description of the wetland on his property and the impacts it has on his property.</li> <li>Asked for an opportunity to mitigate.</li> <li>Referenced the list of jurisdictions with higher wetland exemption thresholds offered as prior testimony.</li> </ul>

#	Name	Date	Topic	Summary of Written Comment
				<ul> <li>Suggested that 3-19d should be and overall Positive.</li> </ul>
27.	Jessie Majerczyk	11/15/12	Streams	Concerned about the impacts of Pine Creek on their property
				due to its classification and associated buffers.
28.	Jim McGraw	11/15/12	EHNSWB	<ul> <li>Suggested that the city staff has implemented an illegal moratorium on development in the overlay.</li> <li>Noted that phosphorus levels are lower in Lake Sammamish currently due to the current regulations and suggested that any toxic blooms we have seen are due to stirring up the bottom of the lake and falling leaves.</li> </ul>
29.	George Toskey	11/15/12	Streams FWHCA	<ul> <li>Offered support for the marked-up code version and discouraged the use of evaluation forms.</li> <li>Noted that stream buffers are inconsistent with those of Lake Sammamish, Pine Lake and Beaver Lake.</li> <li>Suggested that the Washington Administrative Code would allow streams to be taken out of any restrictions.</li> <li>Noted that a 50 foot buffer would be consistent with Pine and Beaver Lakes.</li> <li>Suggested identifying the species of concern in FWHCA eliminating uncertainty.</li> </ul>
30.	Bob Sorenson	11/15/12	General	<ul> <li>Suggested eliminating the politics from this process and focusing on the environment including the Department of Ecology's concerns.</li> </ul>
31.	Ilene Stahl – Friends of Pine Lake	11/15/12	EHNSWB	<ul> <li>Suggested that current regulations are not protecting the environment well enough and that further development, including the use of the pilot program, will degrade protections further.</li> <li>Suggested that cumulative impacts are taken into account.</li> <li>Suggested that the evaluation forms are weighted improperly and that Environment should be given more significance than the others.</li> </ul>
32.	Councilmember Valderrama - Aramayo	11/15/12	General	<ul> <li>Offered support for the process and kudos for the members of the Planning Commission, members of the public and staff for their respective roles and time.</li> </ul>
33.	Rory Crispin	11/15/12	General	Concerned about shorelines and the associated buffers that were adopted as part of the Shoreline Master Program.

#	Name	Date	Topic	Summary of Written Comment
				<ul> <li>Concerned about the Director's discretionary powers throughout the code.</li> <li>Suggested that RUE should be the instrument of last resort.</li> <li>Noted that WAC 365-190-20(20) allows for development in geo hazard areas and suggested this allowance should be adopted in the Sammamish Municipal Code.</li> <li>Concerned about the suggested 1.5 safety factor as drafted.</li> <li>Questioned the need for native plantings in mitigation areas.</li> </ul>
34.	David & Megan Gee Written Comment #263	12/3/12	Isolated Wetland Exemptions	<ul> <li>Recommended amendments to the proposed code language 21A.50.320</li> <li>Comparison of other jurisdictions' isolated wetland exemption thresholds</li> <li>Concern over Department of Ecology comments</li> </ul>
35.	Marilyn Favre Written Comment #264	12/4/12	Erosion Hazard near Sensitive Water Body overlay Landslide Hazard Area	<ul> <li>Concern over development in the Inglewood neighborhood</li> <li>Citation of Sammamish Comprehensive Plan policies related to the environment</li> </ul>
36.	George Toskey Written Comment #265	12/4/12	Streams  Quality of Best Available Science	<ul> <li>Stream buffers are inconsistent with protections afforded to Lake Sammamish. In both cases, buffers are intended to provide protection for fish</li> </ul>
37.	Reid Brockway Written Comment #266	12/5/12	Stream & Wetland buffers	<ul> <li>Summary of concerns with draft ECA code:         <ul> <li>Any alteration to buffer requires a critical area study</li> <li>No structure within 15 feet of a watercourse, despite site conditions</li> <li>State or federal mandated plantings</li> <li>Removal of invasive species</li> <li>Expansions of existing single family homes</li> </ul> </li> </ul>
38.	Greg Krabbe Written Comment #267	12/4/12	Erosion Hazard near Sensitive Water Body overlay	<ul> <li>Summary of reasons for supporting the proposed 4-15g (Carson) amendments, including a summary of previously submitted testimony.</li> <li>Statement of support for the proposed 4-15f (Osgood) amendments.</li> </ul>
39.	Citizens for Sammamish Environmental Subcommittee	12/5/12	All proposed ECA amendments	<ul> <li>Proposed amendments to the Planning Commission Deliberation draft regulations.</li> <li>Summary of "most significant concerns":</li> </ul>

#	Name	Date	Topic	Summary of Written Comment
	Written Comment #268			<ul> <li>Director's discretion should only be used to relax standards</li> <li>Expert reports should not be subject to review / challenge unless fraudulent or not credentialed</li> <li>EHNSWB overlay map should be advisory and evaluated on a site-by-site basis.</li> <li>Buffers should not be modified as proposed by item 3-4b</li> <li>Wildlife protections should only apply to undeveloped land. No increase in buffer protection should be required.</li> <li>Wildlife protections should be limited on the burden they place on existing development</li> <li>Provide wetland exemptions for wetlands up to 4,000 square feet (item 3-19)</li> </ul>
40.	Greg Krabbe Written Comment #269	12/5/12	Erosion Hazard near Sensitive Water Body overlay	Proposed correction to language contained in SMC 21A.50.225, consistent with item 4-15.
41.	Reid Brockway Written Comment #270	12/5/12	Streams & Wetland Buffers	Repeat of written comment #266 (numbered as 37 in this table).
42.	Joe Burcar (Department of Ecology) Written Comment #271	12/5/12	Isolated Wetland Exemptions (item 3-19e)	<ul> <li>Department of Ecology comments on item 3-19e:         <ul> <li>Only should adopt exemptions for isolated wetlands</li> <li>Appropriate mitigation should be required consistent with BAS</li> <li>If exemption is proposed in the Shoreline Master Program (SMP), additional analysis will be required to meet the requirements of RCW 90.58</li> </ul> </li> <li>Summary of documentation and comments previously provided by Department of Ecology</li> <li>Evaluation of likelihood of Department of Ecology approval on the exemption in the SMP should be based on objective analysis (not based upon benchmarks with other cities)</li> </ul>
43.	Susan Richardson Written	12/6/12	Erosion Hazard near Sensitive Water Body overlay	Summary of non-technical comments related to overlay:     EHNSWB overlay should be viewed as a takings of property

#	Name	Date	Topic	Summary of Written Comment
	Comment #272			<ul> <li>Item 4-15f is a good and reasonable proposal which will allow some development opportunity</li> <li>Unfair that the Carson proposal (item 4-15g) is moving forward, while item 4-15f is not</li> <li>Staff is inconsistent in accepting risk with projects, compared to the standard set for pilot program</li> <li>Inconsistency between protecting Lake Sammamish through regulations, and the city's lack of funding for necessary stormwater infrastructure</li> </ul>
44.	Sam Rodabough (representing Jim Osgood) Written Comment #273	12/6/12	Erosion Hazard near Sensitive Water Body overlay	<ul> <li>Recommendation to allow subdivision in the no-disturbance area, with several points supporting the recommendation:         <ul> <li>State law allows development in erosion hazard areas where risk is reduced to acceptable levels</li> <li>City's consultant concluded technology exists to reduce risk</li> <li>Support for the pilot program approach</li> <li>Viable alternative for managing risk in a pilot program is through the use of manmade conveyances</li> </ul> </li> <li>Summary of the specifics of item 4-15f and the reasons why these specific items should merit an overall positive rating</li> </ul>
45.	Jim Osgood Written Comment #274	12/6/12	Erosion Hazard near Sensitive Water Body overlay	<ul> <li>List of proposed approaches to managing risk suggested by staff to Mr. Osgood</li> <li>Reasons why the staff proposed approaches do not make sense for the Osgood property</li> </ul>
46.	Sam Rodabough (representing Rob Kapela) Written Comment #275	12/6/12	Erosion Hazard near Sensitive Water Body overlay	Expressing support for proposed item 4-15e, which allows additional flexibility for single family homes in the nodisturbance area
47.	Rick Tomkins (representing Jim Osgood) Written Comment #276	12/6/12	Erosion Hazard near Sensitive Water Body overlay	<ul> <li>Recommending that the Planning Commission support item 4- 15f (Osgood proposal) based upon:         <ul> <li>Increased protection afforded by the 2009 KCSWDM forested conditions modeling</li> <li>Level 3 flow control</li> <li>Mandatory peer review</li> <li>Proposed volume reduction methods included as part</li> </ul> </li> </ul>

#	Name	Date	Topic	Summary of Written Comment
				of item 4-15f
48.	Linda Eastlick Written Comment #277	12/6/12	All proposed ECA amendments	<ul> <li>Specific comments on the draft language of the proposed amendments to the ECA regulations</li> </ul>
49.	Rory Crispin Written Comment #278	12/6/12	Frequently Flooded Areas  Landslide Hazard Areas	<ul> <li>Recommended amendments to the Frequently Flooded regulations in SMC 21A.50.230</li> <li>Recommended amendments to the Landslide Hazard area regulations to:         <ul> <li>Buffers to be reduced to zero (instead of 15)</li> <li>Elimination of buffers for landslide hazard areas</li> <li>Modify slope factors of safety</li> <ul> <li>Allow building on slope with a minimum factor of safety of 1.5, without an RUE</li> </ul> </ul></li> <li>Pictures of development on steep topography</li> </ul>
50.	Rory Crispin Written Comment #279	12/6/12	Landslide Hazard Areas	• Increase the exemption for steep slopes in SMC 21A.50.260 from 20 feet to 30 feet – related to item 4-8c
51.	Susan Richardson Written Comment #280	12/6/12	Erosion Hazard near Sensitive Water Body overlay	• Repeat of written comment #272 (numbered as 43 in this table).